

POSITION PAPER  
INITIAL MEETING OF THE  
UN COMMITTEE ON THE PEACEFUL  
USES OF OUTER SPACE

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March 13, 1962

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LIABILITY FOR SPACE VEHICLE INCIDENTS

THE PROBLEM

The position to be taken by the United States concerning the problem of liability for space vehicle incidents.

UNITED STATES POSITION

1. The United States should propose that the Legal Subcommittee initiate a study of the principles of state responsibility for damage caused by space vehicles.
2. The Legal Subcommittee should, after an initial brief discussion of the liability problem, have the Outer Space Committee request the Secretary-General to summon a small panel of experts with suitable qualifications, drawn from various geographical areas. Less preferably, the Legal Subcommittee could summon the panel.
3. The panel, assisted by technical experts, should prepare a report containing its recommendations for treaty or other instruments. This report should be forwarded to the Committee for discussion and to governments for comment; hopefully, this could take place in 1962. The Committee should then make necessary revisions in the draft instruments, and request the General Assembly to call a plenipotentiary conference for the conclusion of an international convention assuming that the treaty form is decided upon.

COMMENT

1. There exists considerable uneasiness, particularly on the part of states not having outer space capabilities, arising from the absence of agreed principles of state responsibility for damage caused by space vehicles. The United States should take the initiative in suggesting an early international study of liability in order to meet these fears and thus to minimize tensions which might otherwise raise impediments to continued reasoned programs in the exploration and use of outer space.

2. A treaty appears to be the optimum form of international consensus on the liability problem. The alternatives of, first, a statement of agreed procedures by states conducting outer space activities, or, second, an Outer Space Committee or General Assembly resolution, seem unsatisfactory because of the difficulties posed by the domestic constitutions of a number of states, including to a certain extent the United States.

3. An optimum treaty might include the following principles:

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(a) The right to seek compensation for a space vehicle incident should, on an international level, accrue exclusively to the state whose nationals have suffered injury or loss of life or property damage.

(b) A launching state should be responsible internationally for injury to or loss of life of any person, other than a national of the launching state, and for damage to property owned by any person, other than a national of the launching state, resulting from the operation of its space vehicles (liability without fault).

(c) Liability in the case of a multi-national launching authority should be shared.

(d) A claimant state should present a documented claim for compensation to the launching state through the diplomatic channel within a reasonable time after the occurrence of the injury, loss or damage.

(e) The presentation of a claim should not require the prior exhaustion of any domestic remedies, administrative or judicial, which may be available in the launching state.

(f) The International Court of Justice should have jurisdiction to adjudicate any dispute relating to the interpretation or application of the above principles in the absence of agreement between the states concerned upon an alternative means of peaceful settlement.

It may be noted that space vehicle incidents are not likely to occur with great frequency; moreover, when they do they are unlikely to cause great damage. For these reasons, the limitation-of-liability concept, which arises in connection with nuclear liability problems, is not relevant.

4. The drafting of a suitable treaty requires a small, technically competent group. Accordingly, the Secretary-General, or, less desirably, the Legal Subcommittee, should summon a panel of experts with suitable qualifications. For example, the panel might consist on the United States and Soviet Union sides of the following:

Leon Lipson, Yale Law School, and

E. Korovin, Chairman, Scientific Research Committee on the Legal Problems of Outer Space, Institute of Law, U. S. S. R. Academy of Sciences.

Inclusion on the panel of experts from Brazil, India, Japan, Morocco, Poland and Sweden might be appropriate. The panel should not be large.

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5. The interests of the United States and the Soviet Union may be expected to be very similar in connection with the liability problem since, obviously, both states are prime users of outer space who must continue their space activities.

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